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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,259	11/04/2003	Pciguang Zhou	KCC-19,694	6079

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EXAMINER
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ZIMMER, MARC S

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/701,259

Applicant(s)

ZHOU ET AL.

Examiner

Marc S. Zimmer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13 and 15-24 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/04/03, 02/04/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. At issue is Applicant's reference to a fastener "material". It appears that Applicant was attempting to identify a type of substrate, as opposed to a sheet having a certain makeup. Clarification is required.

Concerning claim 22, the word "applied" would better represent the relationship between the composition and the adhesive layer type than does the word "formed".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-13, 15-20, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Nesculescu et al., U.S. Patent Application Publication No. 2004/0005832.

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e)

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might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

They disclose the preparation of elasticized composites used in the production of any of the articles of manufacture disclosed in paragraphs 40 and 41. The composite comprises at least one facing sheet (paragraph 60) and a hot melt synthetic rubber-based PSA comprising a thermoplastic elastomer and tackifier in amounts of 30-65% by weight and 30-70% by weight respectively (see columns 49 and 50). The preferred embodiments of these materials are the same as those mentioned in Applicant's Specification. Where the weight contribution of the former is at the high end of the recited range, the composition will inherently possess the viscosity mandated by the claim. A method of applying the adhesive composition to the facing sheet(s) is contemplated beginning at paragraph 61.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nesculescu et al., U.S. Patent Application Publication No. 2004/0005832. Plasticizers are mentioned as an optional ingredient in paragraph 46. By virtue of the fact that it is

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optional, it will, of course, be added in small amounts consistent with those permitted by the claim. Concerning the softening point limitation, the substances conventionally used in adhesive compositions of this type are liquids at room temperature hence this aspect is inherently satisfied.

***Allowable Subject Matter***

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

There are innumerable adhesive compositions that, at a minimum comprise an elastomeric polymer and tackifier equivalent to those advocated by Applicant. However, in virtually every instance, the viscosity reported was an order of magnitude smaller than that being contemplated, ostensibly because, whereas the base polymer makes up at least 50% by weight of the present composition, it comprises at most 30% by weight of the compositions of the prior art. Bunnelle et al., U.S. patent Application publication No. 2004/0162394 teaches similar compositions with viscosities as high as 75,000 mPa's (1 mPa's = 1 cp) but the Examiner did not find any other comparable compositions having a viscosity above 50,000 cp.

Diehl et al., U.S. Patent # 5,399,627, discloses a synthetic rubber-based adhesive composition comprising a radial block copolymer of styrene, isobutylene, and butadiene (column 2, line 45 to column 3, line 45), a primary tackifying resin selected from those outlined in column 6, line 43 to column 7, line 18, and also one or more of

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several optional materials including a liquid tackifier having a softening point that is below room temperature (column 7, lines 19-53). In one embodiment of their invention, Example 1, it is reported that viscosity of the adhesive is 162,200 but it is not stipulated under what conditions the viscosity was measured. In view of the relatively high amount of tackifier employed, see the table under the heading "Formulation Examples", it is believed that this figure does not reflect a viscosity measured in the range stated by Applicant.

Korpman, U.S. Patent # 3,783,072, discloses a method of manufacturing tapes that employs as an adhesive a synthetic rubber adhesive composition comprising the materials outline in column 2, line 23 to column 3, line 9. Notably, these are the same materials as are presently contemplated. The discharge end of the extruder is kept at between 300 and 330° C and, hence, this will be approximately the temperature of the extrudate (column 5, lines 51-56). According to column 6, lines 29-30, the viscosity of the extrudate at this temperature is between 750,000 and 2,000,000 cp, which is somewhat higher than that permissible by the claim.

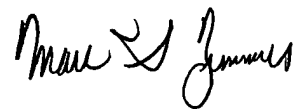
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc S. Zimmer whose telephone number is 571-272-1096. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 17, 2006



**MARC S. ZIMMER**  
**PRIMARY EXAMINER**